

REMARKS

Reconsideration and allowance are respectfully requested.

Claims 33, 39, 45, and 51 have been amended to clarify further the pH of the claimed compositions. No new matter has been added. Therefore, claims 32-54 are pending in the present application and at issue. It is respectfully submitted that the present amendment presents no new issues and places this case in condition for allowance.

Applicants thank Examiner Rao, as well as Mr. P. Achutamurthy and Mr. Anthony Caputa for the courtesies extended during the interview of June 19, 2003.

I. The Rejection of Claims 33, 39 and 45 under 35 U.S.C. 112

Claims 33, 39, and 45 were rejected under 35 U.S.C. 112, second paragraph as indefinite. Specifically, the Examiner contends that the term "having a pH ranging from 3 to 10" is not clear.

Claims 33, 39, and 45, as well as claim 51, have been amended as agreed upon with the Examiner to overcome the rejection. Accordingly, withdrawal of this rejection is respectfully requested.

II. The Rejection of Claims 32-54 under 35 U.S.C. 112

The rejection of claims 32-54 under 35 U.S.C. 112, first paragraph as lacking enablement has been withdrawn.

III. The Rejection of Claims 32-54 under 35 U.S.C. 103

Claims 32-54 have been rejected under 35 U.S.C. 103 as being unpatentable in view of Clarkson et al., U.S. Patent Nos. 6,107,265 ("the '265 patent") and 6,162,782 ("the '782 patent").

This rejection is respectfully traversed, and reconsideration is requested.

The '265 and '782 patents issued on August 22, 2000 and December 19, 2000, respectively, which is after the earliest effective U.S. filing date of the present application. Therefore, the '265 and '782 patents could only be applied in this rejection if they were prior art under 35 U.S.C. 102(e). However, the '265 and '782 patents are not.

The earliest application from which the '265 and '782 patents claim the benefit is U.S.S.N. 07/593,919 ("the '919 application"), filed October 5, 1990. However, the '919 application discloses only cellulases from the single species, *Trichoderma reesei*, and does not disclose various limitations of the '265 and '782 patents such as a surfactant, the amounts of surfactant recited in the claims of the '265 patent, or the amounts or components of a fungal cellulase composition.

Since the '919 application should not be considered to disclose the invention of the '265 and '782 patents, the 102(e) date of the '265 and '782 patents is June 11, 1991, the filing date of U.S.S.N. 07/713,738 ("the '738 application"), which is a continuation-in-part of the '919 application. See Manual of Patent Examining Procedure, section 2136.03, p. 2100-95 (Eighth Edition, Revision February 2003). This latter 102(e) date is after the May 8, 1991 international filing date of the present application. Accordingly, the present application antedates this 102(e) date of the '265 and '782 patents, and neither patent is available as prior art under 35 U.S.C. 103(a).


Alternatively, if the '265 and '782 patents were entitled to the filing date of the '919 application (i.e., October 5, 1990) as their 102(e) dates, that would mean that the disclosure of the single species of the '919 application was sufficient support for the subject matter of the '265 and '782 patents. In that case, however, the present application would be entitled to the priority of Danish patent application 1158/90, which was filed on May 9, 1990, and which discloses at least one species of the present claims. Again, the present application's May 9, 1990 priority date would antedate the '919 application filing date and the 102(e) date of the '265 and '782 patents of October 5, 1990, and again the '265 and '782 patents would not be not available as prior art under 35 U.S.C. 103(a).

IV. Conclusion

In view of the above, it is respectfully submitted that all claims are in condition for allowance. Furthermore, it is believed that this application is in condition for the declaration of an interference with the '265 and '782 patents, with Rasmussen et al. as the senior party. Early action to that end is respectfully requested. The Examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this amendment or application.

Respectfully submitted,

Date: June 20, 2003


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